



Republican Policy Committee

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Cuba Embargo Codified in Cuba Conference Report

Clinton Efforts to Cozy Up to Castro Reversed in Wake of Shootdown

In the aftermath of the recent Cuban downing of two private aircraft and the killing of four United States citizens, the Clinton Administration has been forced to reverse its previous opposition to H.R. 927, the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act. As described below, the revised text of the bill just reported from conference is — in significant ways — *stronger* than either of the versions previously passed by the House and Senate, which the President had threatened to veto.

The Administration's reversal is a setback to its efforts to improve relations with the Castro regime, beginning with the policy initiated last year to repatriate Cubans intercepted in the Straits of Florida — overturning a 35-year-old policy of extending asylum to persons fleeing the communist-ruled island.

The Conference Report

H.R. 927 passed the House on September 21, 1995, by a margin of 294 to 130; the Senate passed an amended version on October 19 by a vote of 74 to 24. The key difference between the Senate- and House-passed bills was the inclusion in the House of the controversial Title III, which creates a private right of action for American citizens to sue persons who traffic in property expropriated from them by the Castro regime. [For further details of Title III and other provisions of H.R. 927, see *Legislative Notice* No. 49 of October 11, 1995, and "The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act," September 21, 1995, available from RPC.]

The Conference report restores Title III with a provision allowing the president to delay its implementation for up to six months (renewable in six-month intervals) *only* if he determines such a delay would be "necessary to the national interest *and* will expedite a transition to democracy in Cuba." Two other changes deserve mention:

- **Traffickers Denied Visas:** The Conference report makes mandatory a discretionary provision in the House-passed bill (which did not appear at all in the Senate-passed bill) that denies visas to individuals who traffic in confiscated property after the date of enactment. Unlike the case with Title III, there is no delay mechanism available to the president with respect to the visa-denial provision.

- **Cuba Embargo Codified:** A provision in the conference report that was not part of either the House- or Senate-passed bills enacts into law all existing Cuba embargo Executive Orders and regulations imposed beginning with the Kennedy Administration. No presidential waiver authority is included. Under this provision, President Clinton would not be able (as he did with Vietnam) to lift the economic embargo against Cuba as a prelude to normalization, unless Congress agrees.

Clinton/Castro Rapprochement Stalled

President Clinton's belated acceptance of H.R. 927 should be seen in light of last year's Cuban refugee crisis, and his Administration's efforts to improve relations with Cuba's unreconstructed communist regime. Following anti-Castro demonstrations in August 1994, Castro — in a move widely seen as a repeat of his use of the "migration bomb" against President Carter during the Mariel Boat Lift of 1980 — announced his government would not interfere with persons who wished to leave Cuba by sea. In the ensuing months an estimated 35,000 Cubans set sail for Florida, resulting in a severe overloading of U.S. abilities to cope with the refugee tide, as well as the deaths of an unknown number of Cubans at sea. The Clinton Administration stored some 20,000 of the Cubans at the U.S. base at Guantanamo Bay, and opened a separate facility in Panama — but the refugee flood continued.

By May 1995, President Clinton capitulated. Reversing a 35-year-old policy of giving refuge to Cubans fleeing Cuba, the Administration reached an agreement with Cuban officials to admit some 20,000 Cubans per year into the United States — but to forcibly return to Castro any Cubans picked up at sea. (To date, according to the State Department, some 320 rafters have been transported back to Cuba by the U.S. Coast Guard.) Senator Helms, Chairman of the Foreign Relations Committee, commented: "For over 35 years, the United States has been a safe haven for Cubans fleeing Castro's repressive Communist dictatorship. Cuban-Americans feel that the Administration has joined with the Castro regime in an effort having the continuing effect of enslaving the people of Cuba." Attorney General Janet Reno, defending the new policy, emphasized the U.S./Cuba cooperative aspects of the agreement: "These new procedures represent another step toward regularizing migration procedures with Cuba, finding a humanitarian solution to the situation at Guantanamo and preventing another uncontrolled and dangerous outflow from Cuba" [*New York Times*, 5/3/95].

On October 6, 1995, President Clinton announced new policy initiatives with regard to Cuba, including authorization for U.S. news organizations to open bureaus in Cuba and allowing nongovernmental organizations to expand their activities in that country. Whether this step would have been followed up (presumably in a second Clinton term) with an easing of trade sanctions and — based on the Vietnam precedent — eventual normalization may never be known. With expected enactment of the H.R. 927 conference report, the embargo is virtually certain to remain in full force for the remainder of Castro's hold on power.

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